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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Pearlitha Martin,

Plaintiff

v.

Whittlesea,

Defendant

Case No. 2:18-cv-02438-JAD-EJY

**Order Adopting Report and  
Recommendation and Dismissing Case**

[ECF No. 6]

On July 29, 2019, the magistrate judge dismissed plaintiff Pearlitha Martin's complaint without prejudice and with leave to amend by August 30, 2019.<sup>1</sup> Plaintiff was warned that her failure to file an amended complaint would result in a recommendation that this case be dismissed.<sup>2</sup> Plaintiff filed nothing, and the magistrate judge recommends that I dismiss this case.<sup>3</sup> The deadline for objections to that recommendation passed without objection or any request to extend the deadline to file one. "[N]o review is required of a magistrate judge's report and recommendation unless objections are filed."<sup>4</sup>

A court may dismiss an action based on a party's failure to prosecute her case or obey a court order.<sup>5</sup> In determining whether to dismiss an action on one of these grounds, the court

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<sup>1</sup> ECF No. 4.

<sup>2</sup> *Id.* at 4.

<sup>3</sup> ECF No. 6.

<sup>4</sup> *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

<sup>5</sup> *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.

1 must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need  
2 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.<sup>6</sup>

4 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
5 court’s interest in managing its docket, weigh in favor of dismissal. The third factor, risk of  
6 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises  
7 from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
8 prosecuting an action.<sup>7</sup> A court’s warning to a party that its failure to obey the court’s order will  
9 result in dismissal satisfies the fifth factor’s “consideration of alternatives” requirement,<sup>8</sup> and  
10 that warning was given here.<sup>9</sup> The fourth factor—the public policy favoring disposition of cases  
11 on their merits—is greatly outweighed by the factors favoring dismissal.

12 Accordingly, IT IS HEREBY ORDERED that the magistrate judge’s report and  
13 recommendation [ECF No. 5] is **ADOPTED** in full;

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19 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

20 <sup>6</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
21 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

22 <sup>7</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 <sup>8</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

<sup>9</sup> ECF No. 4.

1 IT IS FURTHER ORDERED THAT **this case is dismissed**. The Clerk of Court is  
2 directed to ENTER JUDGMENT ACCORDINGLY and CLOSE THIS CASE.

3 Dated: January 31, 2020

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U.S. District Judge Jennifer A. Dorsey